

Full Length Research Paper

Perceptions of principals' responsibilities in-loco-parentis in Nigerian secondary schools

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This paper reviewed the perceptions of principals' responsibilities in-loco-parentis in Nigerian secondary schools, using the theoretical method, applied precedent cases and administrative examples. This work also suggested that possible modifications may be needed especially where past laws of operations have been revised. This approach could allow for more harmony among parents, students, teachers and principals, in assuming a peaceful teaching and learning atmosphere, thereby discouraging unnecessary litigations based on unreasonable rules and regulations.

Key words: Principals' responsibilities, in-loco-parentis, Nigerian secondary schools.

INTRODUCTION

The term "in-loco-parentis" is a Latin derivative, which means "in place of parents". It is universally acknowledged that principals stand in-loco-parentis to students, with corresponding privileges and responsibilities which they carry out on behalf of parents. The doctrine of in-loco-parentis applies "in place of parents", principals having some rights and duties of parents. It is recognized that in terms of expressed contract, teachers, tutors, principals or principals have responsibilities of parents within and outside the school. This obligation is that while children are in schools, principals are made to assume the full responsibility of caring for the students (Akiri, 1990). This full responsibility assumed by principals and teachers is known as 'the doctrine of in-loco-parentis'. On this basis, principals have a full right to mould the children's moral character, assist them in mental and physical development and cater for the fostering of the spirit of national consciousness in the children, who are in daily attendance in primary and post primary schools (Bendel State Gazette, 1988).

However, the right of principals' in-loco-parentis is not absolute when considering the control they have over students in the Nigerian school system. It should be realized that when teachers and principals are not absolute in considering the control they have over students in the Nigerian school system within the scope of their duties in terms of reasonable and executing possible rules and regulations, the courts may assist in promoting proper and effective teaching and learning atmosphere in the schools. This is because the courts in democratic societies

as in case of Nigeria, as it is all over the world viewed school officials as standing in-loco-parentis, allowing them to regulate the students in any manner since parents agree to delegate school principals the parental authority to control their children's conduct in a manner which will be of the best interest to the children in the schools. Every Nigerian school has a set of rules and regulations meant to guide students towards good conduct and behaviour in order to maintain general discipline, peace and order, necessary for effective teaching and learning.

The doctrine of In-loco-parentis

Principals have the power, authority and responsibility for administering a school's disciplinary programme. This power to control and discipline students for infractions is traceable to the age-old doctrine of in-loco-parentis (in place of parents). This position of the principals with regards to disciplinary control of students is well explained in the corpus juris secundum (79 C.J.S. 493).

As a general rule, a principal, to a limited extent at least, stands in-loco-parentis to student under his charge and may exercise such powers of control, restraint and correction over them as may be reasonably necessary to enable him to properly perform his duties as teacher and to accomplish the purpose of education, he is subject to such limitations and prohibitions as may be defined by law. The courts in the Nigerian school system viewed school officials as standing in-loco-parentis, regulating

the students in a manner, subject only to the standards and restraints that parents would use in supervising the welfare of the child. For example, in *Gott V. Berea College in the U.S.* (1913), the justice held that:

“Principals stand in-loco-parentis concerning the physical and moral welfare and mental training of the pupils and we are unable to see why, to that end, they may not make any rule or regulation for the government or betterment of their students that a parent could for the same purpose”.

The implication of this statement is that courts ordinarily will not interfere with the authority of a school to make rules governing students' behaviour unless such rules are unlawful, unreasonable and capricious or against public policy.

The doctrine of in-loco-parentis had been based on the assumption that by sending their children to school, parents agree to delegate to school officials the power or parental authority to control their children's conduct in a manner that will be of the best interest to the child. Alexander (1980), however, points out that today; this situation is drastically changing. Parents now argue that when the concept originated, education was voluntary and personal, the parent voluntarily committed the child to the authority of the teacher who usually spent the entire day with the child in a small classroom or school, thereby developing something akin to a parent/child relationship with the pupil. Most teachers today instruct children for only part of the day and have fewer opportunities to form close relationship in large classes and schools. It is in the light of this latter point the Ohio department of education in the United States has come to reject the idea that schools may act in place of the parents. The department was of the view that to stand in-loco-parentis, one must assume full duties, responsibilities and obligations of a natural parent to a pupil. Alexander stated thus:

“That students' relationship to school and to parents are entirely different. The school/child relationship is intermittent with different adults involved at different times of the day and year, they often at superficial levels and for short periods of time stayed with the child. Parents' relationship on the other hand ordinarily incorporates deep feelings of mutual love and affection. For this reason, corporal punishments inflicted by parents would have an entirely different effect than the same punishment meted out by school authority (1981)”.

What this mean is that the doctrine of in-loco-parentis is on the wane not only in the United States but also in Europe and even in Nigeria.

Principals' In-loco-parentis

Principals are also teachers in the Nigerian school system, who in their positions in-loco-parentis to the children in their charge, act reasonably in this capacity provided their actions are in accordance with general and

approved educational practice and provided that they take such care of their children as careful fathers would take and they have little to fear from mischance of school life. In a case, some grammar school students were playing, contrary to the school rule, with a cricket-pitch roller which can cover one of them. The parents sued the principal and the master in charge, claiming damages for negligence. The case was headed at LEEDS Assizes in March, 1998 under Mr. Justice Hilbery's summing up, who has a mastery exposition of the doctrine of a careful father. He said “it was not suggested for the plaintiff that anybody could reasonably say that a master must watch boys not merely in classes, but throughout every moment of their school lives”. Thus, a teacher has the right in-loco-parentis to control the child during and after school premises. A teacher is not only known and called that professional name “teacher” as it is with “doctors”, “Engineers”, “Pastors” etc within the system only but also outside the organizations. Hence, teachers as professionals should not be involved in any professional misconduct but to abide to the various codes of ethics of the teaching profession.

Freedom of expression

It is considered that in a democratic society, principals like other citizens should possess the freedom of expression. Principals' freedom is curtailed that whatever is said may not lead to any disorder on the part of students and does not disrupt effective administration of the school.

Principals' freedom of expression can be categorized into three areas:

- i) Outside school environment.
- ii) On school grounds.
- iii) Within classrooms.

Outside school environments

It is stated in article 38 of the 1999 Nigerian constitution (Nigerian Constitution, 1989) that every person is entitled to freedom of expression which includes that to hold possible opinions, receive and import ideas as well as, information without interruption from any person or group of persons. Principals are restricted by virtue of the fact that they are not as free as the ordinary citizen. An employee such as an educator who is in service undertake making reckless and false statements that can be of damage to a school system especially, where such interest of the school takes priority over the teacher's freedom of expression.

On school ground outside classroom

It is very clear that one's utterances on the job is restricted to the disadvantage of the employee with such restriction makes it possible for principals to have more

protection and control over educators. This allows teachers to be guided on the following:

- i) Staffs are not expected to have labour meetings during school hours unlike meeting having to do with school.
- ii) Civic and charitable organizations could be given access during school period.
- iii) Meetings allowed for teachers after school hours are normally censored.

Within classroom

The fundamental human right of expression though guarantees freedoms of expression but principals are still limited within reasonableness of the prescribed curriculum provided. The possibility of this surround the fact that the state provides a prescribed guideline through the teaching service board called the curriculum which specified on what, who and how it's to be taught. This is a public employee and educator needs to be careful about the type of doctrine that is propagated especially when it has to do with biology, politics, sex, education and religion. This restriction is encouraged to allow the teacher focus on the curriculum directed on the audience so required. Consequently, if a teacher gets into a controversial and sensitive area, such a principal should be able to direct discussion by showing maturity and expertise so as not to loose sight of the goal.

Freedom of association

Freedom of association is very necessary for principal and it is likened to the freedom of expression which makes it possible for people who share the same values, norms and profession come together to examine issues affecting such organization. Article 39 of the 1999 Nigerian constitution states that people shall be accorded the right to assemble freely and associate with each other. Thereby in particular the person may form or belong to any political party, union or other associations for both personal protection and interest. By virtues of being a public servant, principal cannot belong to Secret cults, political parties or organizations that promote subversive activities. They are encouraged to collectively belong and promote their interests demands.

Search and seizure of students in schools

A principal acts in the capacity of in-loco-parentis in the absence of the national parents. School authorities are privileged to oversee the activities of student and in the process of performing such functions. Some principals arrogate so much power to themselves by acting outside the reasonable scope of their duties. The doctrine of in loco-parentis does not cover a principal who misuses power by unnecessary confiscating the belonging of students

where these have violated school rules by either wearing on active regarded as unconventional and shoes with heel plates that can disrupt the learning atmosphere of an institution. Article 35 of the 1989 Nigerian constitution, specify the right to fair hearing before one's private property and liberty (Nigerian constitution, 1989), can be taken away. The relevance of this to educators and principals is to allow for all exhaustive remedies which enable teachers demonstrate their maturity and skills in dealing with criminal situations.

Principal should be properly exposed to article 12 of the 1989 Nigerian constitution in the process of carrying out administrative duties either on school premises or off school premises. Both educators and proper provision of information in school property since their intentions are that of providing safety, conducive, learning and peaceful atmosphere, while the doctrine of in loco-parentis and sovereign community, are properly applied.

The contrary is the case when off school property search is carried principal and educators can take the laws into their hands because the lack of the constitutionality by boldly going to search a property off school premises. There are normal channels that such principal must follow: Establish the issue with the police since it is a criminal offence and a search warrant is obtained.

The police and the school authorities could go but the duty is strictly that of the police who can carry out the search. The principal's control cannot be extended beyond school grounds, since it is not within the jurisdiction as specified in the scope of duties.

Corporal punishment in schools

It is by definition subjecting an individual to torture, in human or degrading treatment or punishment. It is simply seen as mere inflicting of physical punishment on another person. The duty of the teacher is explicitly mentioned when the teacher is standing in proxy for the nation through his obligation to the state.

It is also assumed that the limitation of how far teachers can go with students, especially when disciplining them within the scope of duties. It is not all teachers that carry-out discipline except the one authorized by the principal. Therefore, either discipline masters or marshals are authorized to enforce discipline on the pupils. The possible reason that can be advanced for such are:

- i) The person carrying out the punishment is normally biased if the offence was committed against him / her.
- ii) There is vested interest.
- iii) Punishment could be regarded as malicious, arbitrary and capricious.

This assumption can be dangerous and when there is an unusual injury in the process of administering the punishment, it is difficult to convince others of non-biased punishment. This is why it is advisable to pass the

punishment role to some neutral persons who cannot be accused of bias. This is established in a case on "teacher has authority to punish, students for acts / offences committed off school premises between O'Rourke V. Walker in Supreme Court of errors of Connecticut, 1925, 102 com. 130, 128 A.25.

Article 33 of the 1989 Nigerian constitution and 5 of the United Nations charter specify people's right to be free from torture and attain personal liberty indicate that persons who have attained the adult suffrage may not be unnecessarily denied personal liberty based on educative and welfare purposes. (Nigerian constitution, 1999; United Nations Charter, 1948). The only reason to have pupils' punishment is the reformative and corrective measure necessary to the offence committed. The courts have accepted unreasonable punishments, administered and unprescribed paddle that have been utilized maliciously, especially when the offence is not commensurate to the punishment. Several instances which include Nwakwo vs. Ajaegbu (Nigerian Constitution Law Report, 1978) Kukoyi vs. Ikhure and board of education, all involve bodily injuries and permanent damages of which, huge compensations were awarded to the plaintiffs based on the trespass of their personal right.

The suggestions from possible court rulings can include that children's age, sex, physical fitness, mental alertness and emotional balance of the child can determine such punishment. The validity of such punishment can only stand when such elements which include the following are available.

- i) Documentation is needed and punishment cannot be first means to deter mis-behaviour.
- ii) The child must be well informed of the punishment before hand.
- iii) A witness is required.
- iv) A well documented report is necessary to be made available to the parents (Nwagwu, 1987).

The Alaboh vs. Boyes and Ajaha (Nigerian Constitution Law reports, 1984) can advance the principle described above and obviously the features were violated. Based on this, the decision of a lower court was upheld and the court declared that the constitutional right of the student was violated. Generally, the burden of proof is normally on the student especially when teachers are acting within scope of their duties. The only reason the courts may rule against educators is when there is evidence of abuse of power.

Enforcing released time

The idea of educators enforcing released time includes the constitutionality of the student having the freedom of thought, conscience and religion, as specified in article 37 of the Nigerian constitution of 1999. Released time per second, is granting time off to the student based on

religious constitutional right to worship on / off school premises. In situations of this type, an educator must be acquired with students' access to space where worship can take place. In case space is a problem, there is need to schedule each religious denomination on how long space could be utilized as to equally allow each individual the opportunity to worship. The constitutional right of an individual is infringed upon where one is denied access to such a space. On the other hand, educator ought to be in firm control when students worship outside environment especially during lent and the Ramadan feast period for Christians and Muslims respectively. This relates to the role of in loco-parentis which principals assume based on the fact that, the to and fro of the students point to safety which is the responsibility of an educator. Normally, school principals who may entrust such supervisory role to more matured students, still need to oversee from time to time what the situation on safety of the students so as to avoid problems and obligations resulting from neglect.

Finally, it would be unconstitutional to enforce religious doctrine on an individual student instead of letting alone the student to practice his religious belief. In past, student who attended post primary schools, fell victim of such circumstances. It was such that they were either converted to the seat other than theirs or they held until schools were on holidays before practicing their faith. Consequently, these made it mandatory for students to only attend secondary schools in Nigeria not only of their choice but based on their religious lines as to ensure that their consciences were not mortgaged.

Loyalty

The principal has to be loyal to the nation in which they serve. It is very crucial and vital. A principal can be terminated if the duties carried out by such educator are not in compliance with the oath of office. This could be in form of when students are indoctrinated with information which has a national ethics and civic duties of the citizens in the process of educating such students, then, such a principal could be dismissed. This is because such information could be bordering on subversive preaching which is against the constitution of the land. This is why principals need to be well acquainted with articles 23 and 24 of the 1999 constitution in Nigeria which can promote national ethnic and civil duties of the citizen. This situation today was unlike in the past, when foreigners came into Nigeria and picked jobs in the school system without necessary exposure to national values but concentrated on personal gains through teachings. Educators' loyalty to the nation is significant since they are to be involved in promoting socialization at the school level which is invariably in the grass root. Therefore, loyalty by principal will include;

- i) Assure public trust and willingness to assist the constitution.

- ii) Discouraging falsehood, perjury and admitting guilt.
- iii) Upholding the constitution by discouraging violence, overthrow of governments and illegal activities. It is no doubt the responsibilities of principals by implication, include indicates to student that loyalty to the nation comes before self and ethnicity.

Self incrimination

Principals, by virtue of the office held, may as anyone else commit crime through self incrimination. Principals may do this virtue of providing necessary assisting information to the government through law enforcing agency. The information is one that may not incriminate one but can be interpreted as admission guilt. Articles 32 and 34 of the constitution of the federal republic of Nigeria relate to personal liberty but not when it has to do with constitutional matters involving the state. It is understood that one constitutional right is secondary when one considers matters affecting the state, meaning that the state takes precedence over one's constitutional rights. It is important to note that there can be presumptions made coming out of the information provided by individuals. In a situation where one refuses to answer questions posed by a jury or committee such silence is not seen as a constitutional right instead it is unconstitutional and attempting deliberately to block government from promoting peace and providing safety. Principals by their virtue of the doctrine of in-loco-parentis in Nigerian secondary schools should constantly help in school settings to discourage crimes and promote conducive learning atmosphere.

Discrimination

Article 4 of the 1999 Nigerian constitution forbids an individual from being discriminated against so long as, one is either by birth or by naturalization, a citizen of Nigeria. This relates to the school system that anybody who is qualified, trained and certified in the teaching field with the basic Nigerian certificate of education can be enabled to move any where within the country not minding either the state of origin or ethnic background, that person can be employed. This provided that the person has met the states certification required and that there is evidence of vacancy and need for personnel skill in the subject area required. Labour is mobile and fluid so principals who are marketable should not be restricted only to their state of origin. The implication of this is to be able to integrate and learn the different cultures and promote national consciousness in the school system. Among Secondary School Students in the Country.

Contract

A contract is usually a mutual agreement between two or more parties and in this case, the individual trained

principals and the teaching service board which is the employer. It is recognized that for a proper contract to be in existence, five possible basic elements prevail. These include; In terms of offer and acceptance, a value must be attached to them and both parties must be legally competent. A contract cannot be signed on a subject prohibited by law and lastly the contract must be agreed upon to the partners in the form as required by law (Reutter and Hamilton, 1976). The features normally prevail in an appointment made available to a teacher.

A principal is normally made aware of the assigned duties as spelt in the civil handbook and through indicative on the job. Thereby in terms of law, the principal cannot be excused for inadequate performance based on ignorance of the rules and regulations. As spelt out in a Latin matein "Ignorantia iuris non Excusat" that is, legis est lata culpa, which means it is a gross neglect to be ignorant of the law is quite apt.

Confirmed appointment

The principal should have a confirmation of appointment after he has met the requirements within periods which may be one to two years. There is need for such principal to understand certain right accorded to him/her in the employment within local government in which the employee serves, except such a principal resigns, retires or dies. It could be noted that where the principal violates or commits a sensitive offence, such a teacher can be dismissed.

Principals' responsibilities In-loco-parentis

The principal is responsible for the right to inflict corporal punishment on students. Any authorized teacher who contravenes this stipulation, certainly act outside his powers and in case any litigation arises from there, he might be found guilty of committing assault and battery.

Principals' In-loco-parentis and students' personnel

One of the major responsibilities of the principal in-loco-parentis in the secondary school is that of students' personnel services. Activities included within the operational area of student personnel, embrace those services to students' that supplement regular classroom instructions. Except in schools with very small enrolment, the chief role of the principal in the student personnel area is one of integrating the personnel functions with instruction and of co-ordinating the various kinds of personnel services. The developments, such as special programs for the talented and the growth of external existing have placed even more emphasis on student personnel services. Some of the major tasks in student personnel are as follows:

- i) Students' inventory and organization.

- ii) Students accounting.
- iii) Students personnel services.
- iv) Control of students' behaviour in schools.

Students' inventory and organization

In most of the secondary schools in Nigeria, principals determine how many pupils there are of school age in the community. It does so by means of a school census, by keeping enrolment and attendance data of the children. It is usually necessary that the number of students be determined by grade level, which is an important responsibility of the principal in-loco-parentis.

With this information in hand, the principal is in a position to determine to what extent school rooms in the existing building will house the students of the community.

If certain buildings appear to be overcrowded and others have capacity to spare, the principal may find that attendance boundaries need to be altered. In recent years, with charges of de facto segregation in many areas in the country, the establishment of attendance area has taken on new significance. The social and racial composition of the attendance area is important as the consideration of number of students to be enrolled in the schools.

Students' accounting

A school census system is established to help school students with this responsibility of in-loco-parentis. There is a compulsory education law in nearly every state in Nigeria and a school census is a necessary step in the enforcement of such laws through principals. However, procedures may be followed in the accounting process.

Another responsibility facing principals' in-loco-parentis in every school system is the development and the operation of students' accounting system. A plan for dealing with students' absence and tardiness must be developed. If such a plan is to be followed by teachers and principals on the principal's role as part of their regular duties, it needs to be relatively simple, if specialized attendance personnel are to be employed, the plan may be somewhat more ambitious. In any case, teachers should have some voice in deciding upon the plan and their own part in the operation will need to be clearly understood. It seems appropriate to say at this point that the "hook cop" approach to attendance leaves much to be desired. There is a usually substantial cause of lack of non-attendance of school pupils. The school needs personnel who can both determine these basic causes and work toward their alleviation. Such cause often reside in the family, or the culture of which the family is a part and thus non-attendance may actually be a social symptom towards which school workers, social agencies and society itself ought to be directing their efforts. Another duty common in student accounting is the issue of work permits in most states, student may be excused at age 14 or 16 if they

are needed to help support a family, or if they can benefit no further from school attendance. These are important decisions in the life of a child and should be made only after facts are ascertained and appropriate counseling has been given to the student and the family. Small school communities, principals and vice principals ordinarily perform these functions in larger communities specialized personnel are usually employed.

Students' personnel services

A very important aspect of the student personnel area of principals' responsibilities in-loco-parentis in the Nigerian school system is the provision of appropriate student personnel services. Large school community may have services such as the followings:

- i) Child study.
- ii) Guidance and counseling advertisement.
- iii) Testing.
- iv) Visiting teachers and social workers.
- v) Speech and hearing therapy.
- vi) Medical and nursing.
- vii) Special education.

Recently, another consideration has been injected into students' personnel services like mounting concern about the kinds of data appearing in students' record, such as test results and teachers' judgments on students' behaviours. If pupil personnel services are to supplement regular classroom instruction, it seems quite clear that some specialized personnel would be necessary.

Control of students' behaviour in schools

Schools attempt to determine the cause of mis-behaviour of students through the efforts of principals and they also treat the cause and not the symptom of such actions. However, there are times when students must be corrected or disciplined. Policies governing these matters are clear. For instance, the responsibilities of teachers and other staff members in this area are understood. Principals exercise appropriate controls over their students. Actually and contrary to the views of some beginning principals, students prefer those principals who are seen as fair, helpful, setting high standards and allowing no 'monkey business'.

Even with the best of principals in Nigerian schools, however, there are times when the principal, guidance counselor, or some other non teaching staff member is placed in the role of disciplinarian. Many contend that guidance counselors and other student personnel workers should have no disciplinary function. The logic behind such an argument is that the guidance counselor should be individual and not group oriented or, perhaps better stated, student centered in place of school centered.

In general, this position is accepted but when carried to its extreme, it would mean that both guidance counselors

and principals would become less effective than they should be. When it is necessary for a principal to take part in a discipline problem, he should ascertain, if possible, the circumstance surrounding the mis-behaviour prior to arrive at a plan of action. Some of this information he may get from the students, some from those workers who have specialized knowledge and the competence to place such knowledge in its appropriate context. The best diagnosis possible is needed if the principal is to be effective in helping youngsters towards the ultimate goal of self-discipline through the doctrine of in-loco-parentis.

Conclusion

Principals in-loco-parentis are bound by law, rules and regulations in the process of carrying out school operations. In order to avoid unnecessary litigations, enlightenment of teachers, educators, principals, student parents and the society in general become very necessary, since the totality of the system must work together. It is not unusual to say that such principals who cannot meet up the required standards should be allowed to seek for more knowledge from other professionals, in order to improve the image of the teaching profession.

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